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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,096	07/30/2003	Birgit Kufner	P03,0274	8482
26574	7590	06/20/2005	EXAMINER	
SCHIFF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473			HARVEY, DIONNE	
			ART UNIT	PAPER NUMBER
			2646	

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,096

Applicant(s)

KUFNER, BIRGIT

Examiner

Dionne N. Harvey

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/25/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 8-11 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by **Leedom (US 6,389,143)**.

Regarding claim 1, in **figure 1**, Leedom teaches a hearing aid device, comprising: a device housing; a voltage source **120** with a voltage source housing **114**, the voltage source comprising at least one ventilation opening **320** for providing ventilation in the voltage source housing; and a ventilation mechanism **315** (**as illustrated in figures 3-4**) configured to enable or prevent the ventilation of the voltage source.

Regarding claim 2, Leedom teaches that the ventilation mechanism comprises an open-close mechanism **315**, which through a pulling/sliding action, opens the vent, thus reading on “configured to open or close the ventilation opening of the voltage source.”

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Regarding claim 3, in **column 7, lines 34-45**, Leedom teaches that the open-close mechanism **315** may comprise a “sticky” portion, reading on “at least one seal element” for sealing the vent opening when in the closed position, reading on “that can be moved relative to the voltage source that closes the ventilation opening in a first position”, and as shown in **figure 4**, may be pulled into a position which opens the vents, reading on “and uncovers the ventilation opening in a second position”.

Regarding claim 4, Leedom teaches that the open-close mechanism may be pulled into an opening position, thereby teaching “a turning or sliding element.”

Regarding claim 5, in **column 7, lines 35-50**, Leedom teaches that by sliding the open/close mechanism into the open position, the device may also be switched on, thus reading on “an on/off switch; wherein the open-close mechanism is connected with the on/off switch for the hearing aid device, such that the ventilation opening is closed given a deactivated hearing aid device and open given an activated hearing aid device.”

Regarding claim 8, in **column 3, lines 47-48**, Leedom teaches a battery case configured to accept the voltage source, and in **column 6, line 10**, teaches that the battery is sealed within the casing, reading on “that can be sealed in an essentially air-tight manner.”

Regarding claim 9, Leedom teaches that the battery case ventilation device comprising a battery case ventilation mechanism **315** for closing the vents of the battery case, thereby teaching “configured to enable or prevent the ventilation of the battery case”

Regarding claim 10, Leedom teaches that the seal is adjustable to an open position, as shown in **figure 4**, reading on “the battery case ventilation device comprises at least one adjustable seal element”

Regarding claim 11, **in figure 4**, Leedom teaches that tab **315**, may be provided with a “sticky” portion, thus sealing the vent opening; said tab **315**, being slidable into an open position, which reads on “at least one seal element is fashioned as a turning or sliding element.”

Regarding claim 13, in **column 7, lines 35-50**, Leedom teaches that by sliding the open/close mechanism **315**, which may be provided with a “sticky” portion, into the open position, the device may also be switched on, thus reading on “an on/off switch for the hearing aid device is fashioned as a seal element or is connected with the seal element.”

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6,7,12 and 14-23 rejected under 35 U.S.C. 103(a) as being unpatentable over **Leedom (US 6,389,143)** in view of **Liu (US 2003/0186099 A1)**.

Regarding claims 6 and 22, Leedom does not clearly teach that the voltage source is arranged in a battery chamber connected to the hearing aid device that can be rotated or turned, and the ventilation opening of the voltage source is opened or closed via the rotation or turning motion of the battery chamber.

Liu teaches a metal-air battery, for use in a communication device, wherein the chamber **86** of the battery is provided with controllable actuators (*see figure 3*) for rotatably or slidably closing and opening the vents in the battery chamber. *See page 5, paragraph [0051].*

It would have been obvious for one of ordinary skill in the art at the time of the invention to combine the teachings of Leedom and Liu, such that the battery vents of Leedom are automatically closable or openable via a rotatable or sliding action, thereby extending the operating life of the battery element.

Regarding claims 7 and 23, on **page 6, in paragraph [0067]**, Liu teaches that the rotating or turning motion of the battery chamber, which opens and closes said chamber vents, may be programmed to coincide with the on/off state of the device, which reads on “the hearing aid device can be activated or deactivated via the rotating or turning motion of the battery chamber.” Additionally, Leedom teaches that the opening and closing of the battery vents, may activate or deactivate the hearing aid device.

Regarding claim 12, in **figure 1**, Liu teaches that the at least one seal element is fashioned as a valve **80**, as broadly claimed.

Regarding claim 14, Liu teaches that the sealing actuator, which may coincide with the on/off mode of the device, may be programmably opened and closed, thereby reading on “automatically adjust the seal element.”

Regarding claim 15, Liu teaches a battery chamber **86** in which the voltage source is arranged; the battery chamber being connected to a communication device, reading on “hearing aid device”, a portion of the chamber being rotated or turned; the battery chamber being opened or closed at least in an essentially air-tight fashion by the rotating or turning motion.

Regarding claim 16, Leedom teaches that the device may be switched on or off by the opening or closing of the vent. While Liu teaches, in **paragraph [0067]**, that the battery chamber is air-permeable given an activated hearing aid device and at least essentially air-tight given a deactivated hearing aid device.

Regarding claim 17, Liu teaches a sealing device with at least one closeable sealing device opening **86** that encloses the ventilation opening **80** of the voltage source; and an actuator, reading on “an open-close mechanism” to open or close the sealing device opening.

Regarding claim 18, in **paragraph [0051]**, Liu teaches that the open-close mechanism comprises a turning or sliding element.

Regarding claim 19, Liu teaches that the open-close mechanism comprises a valve.

Regarding claim 20, Leedom teaches that the open-close mechanism comprises an on/off switch for the hearing aid device.

Regarding claim 21, Liu teaches that the actuators, used for opening and closing said vents, is automatically opened or closed via operation of the on/off switch.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Ball (US 5,949,865) teaches a battery having a sealed vent.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne N. Harvey whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 571-272-7499. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.H.


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